

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Brett Thomas Green,

Plaintiff,

v.

Hearing Officer Michael Parks and
Warden Michelle Smith,

Defendants.

**MEMORANDUM OPINION
AND ORDER**

Civil No. 14-857 ADM/BRT

Brett Thomas Green, pro se.

I. INTRODUCTION

This matter is before the undersigned United States District Judge for a ruling on Plaintiff Brett Thomas Green's Objections [Docket No. 53] to Magistrate Judge Becky R. Thorson's January 28, 2016 Report and Recommendation [Docket No. 52] ("R&R"). In the R&R, Judge Thorson recommends denying Plaintiff's Motion for Injunctive Relief [Docket No. 51]. After a de novo review of the record, and for the reasons stated below, Plaintiff's Objections are overruled and Judge Thorson's R&R is adopted.

II. BACKGROUND

Plaintiff is a Minnesota prisoner claiming that he was denied due process at his March 2012 disciplinary hearing. Compl. [Docket No. 1] at 5, 7. Plaintiff commenced this 42 U.S.C. § 1983 action in March 2014. On August 18, 2015, Plaintiff received a new disciplinary hearing. As a result, this action was dismissed as moot on October 30, 2015. See Order [Docket No. 49]. Final judgment was entered on November 2, 2015. See J. [Docket No. 50].

On November 20, 2015, Plaintiff was transferred from the Minnesota Correctional

Facility (“MCF”) in Rush City to the MCF in Stillwater. Mot. Inj. Relief at 1. On December 4, 2015, Plaintiff filed a Motion for Injunctive Relief requesting that he be transferred back to the MCF in Rush City. Judge Thorson recommends denying the motion because the claims in this lawsuit have already been dismissed, and also because the injuries alleged in the motion for injunctive relief are unrelated to the § 1983 claims previously alleged.

Plaintiff objects to the R&R, arguing that no judgment was entered in this case.

III. DISCUSSION

In reviewing a magistrate judge’s report and recommendation, the district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C); see also D. Minn. L.R. 72.2(b). A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id.

Plaintiff’s objection is overruled because judgment was entered in this case on November 2, 2015. Additionally, even if judgment had not been entered, the motion for injunctive relief must be denied because it is unrelated to the claims asserted in Plaintiff’s underlying complaint. A party seeking an injunction “must necessarily establish a relationship between the injury claimed in the party’s motion and the conduct asserted in the complaint.” Devose v. Herrington, 42 F.3d 470, 471 (8th Cir. 1994). Here, Judge Thorson correctly determined that the allegedly illegal transfer to the MCF in Stillwater in November 2015 is unrelated to his underlying Complaint of denial of due process at his March 2012 disciplinary hearing.

IV. CONCLUSION

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff Brett Thomas Green's Objections [Docket No. 53] to Magistrate Judge Becky R. Thorson's January 28, 2016 Report and Recommendation [Docket No. 52] are **OVERRULED**;
2. The Report and Recommendation [Docket No. 52] is **ADOPTED**; and
3. Plaintiff's Motion for Injunctive Relief [Docket No. 51] is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: March 11, 2016.